

2003-0098

INTRODUCED BY: ALBERT D. LAQUE, PARISH PRESIDENT
(DEPARTMENT OF WASTEWATER)

ORDINANCE NO. 03-4-7

An ordinance approving and authorizing the execution of a contract with Insituform Technologies, Inc., to perform preventative maintenance of existing 6" diameter through 60" diameter sanitary and storm sewer including service laterals in St. Charles Parish.

WHEREAS, Jefferson Parish has accepted a bid from Insituform Technologies, Inc., to perform preventative maintenance of existing 6" diameter through 60" diameter sanitary and storm sewer including service laterals; and,

WHEREAS, Insituform Technologies, Inc. has provided to St. Charles Parish its contract with Jefferson Parish and has agreed to furnish all labor, materials, tools, equipment, etc., and to perform all work required in accordance with the specifications, terms and conditions for those stipulated in the Jefferson Parish bid package; and,

WHEREAS, the selection of Insituform Technologies, Inc., to perform sewer rehabilitation through a cooperative purchasing agreement (joint action LA.R.S. 33:1321) with Jefferson Parish will expedite the implementation of repairs that will minimize infiltration and inflow in parish sewers.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. That the contract between Insituform Technologies, Inc. and St. Charles Parish is hereby approved.

SECTION II. That the Parish President is hereby authorized to execute said contract on behalf of St. Charles Parish.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: RAMCHANDRAN, FAUCHEUX, HILAIRE, FABRE, AUTHEMENT, BLACK, MARINO

NAYS: ABADIE

ABSENT: MINNICH

And the ordinance was declared adopted this 7th day of April, 2003, to become effective five (5) days after publication in the Official Journal.

Insituform Preventative Maintenance

CHAIRMAN:

SECRETARY:

DLVD/PARISH PRESIDENT:

APPROVED:

DISAPPROVED:

PARISH PRESIDENT:

RETD/SECRETARY:

AT. 4:10 PM

RECD BY:

STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT is by and between St. Charles Parish (hereinafter called OWNER) and Insituform Technologies, Inc (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 – WORK

1.01 CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Preventative maintenance of existing 6" diameter thru 60" diameter sanitary and storm sewer including service laterals.

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Two year Maintenance Contract to run concurrent with Jefferson Parish, July 18, 2002 thru July 17, 2004.

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by Jefferson and St. Charles Parish acting jointly who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Days to Achieve Substantial Completion and Final Payment*

A. The Work will be substantially completed within the time periods agreed upon at assignment of work, and completed and ready for final payment in accordance with the General Conditions.

4.03 *Liquidated Damages*

A. CONTRACTOR and OWNER recognized that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER \$400 for each day that expires after the time specified in paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER \$400 for each day that expires after the time specified in paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, below:

A. For all Work, at the prices stated in CONTRACTOR's Bid, attached hereto as an exhibit.

As provided in the general conditions, estimated quantities are not guaranteed, and determinations of actual quantities, classifications, and work directives to install all units are to be made by Engineer as provided in the general conditions.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

A. CONTRACTOR shall submit Applications for Payment in accordance with the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

A. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment on or about the 1st day of each month during performance of the Work as provided in paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER may determine or OWNER may withhold, in accordance with the General Conditions:

a. 95% of Work completed (with the balance being retainage). If the Work has been 50% completed as determined by ENGINEER, and if the character and progress of the Work have been satisfactory to OWNER and ENGINEER, OWNER, on recommendation of ENGINEER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed less the aggregate of payments previously made; and

b. 95% of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

2. Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% of the Work completed, less such amounts as ENGINEER shall determine in accordance with the General Conditions and less 100% of ENGINEER's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 *Final Payment*

A. Upon final completion and acceptance of the Work in accordance with the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided.

ARTICLE 7 – INTEREST

7.01 All moneys not paid when due as provided in the General Conditions shall bear interest at the rate of 0% per annum.

ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

8.01 In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. CONTRACTOR has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in the General Conditions.

E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto

F. CONTRACTOR does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Contract Documents.

H. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, test studies, and data with the Contract Documents.

I. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 7, inclusive);
2. Performance Bond
3. Payment Bond
4. Other Bonds
5. General Conditions (pages 1 to 31, inclusive);
6. Supplementary Conditions (pages 1 to 26, inclusive);
7. Specifications as listed in the table of contents of the Project Manual;
8. Drawings consisting of a cover sheet and sheets numbered n/a through n/a, inclusive, with each sheet bearing the following general title: n/a
9. Addenda (numbers _____ to _____, inclusive);
10. Exhibits to this Agreement (enumerated as follows):
 - a. Notice to Proceed (pages 1 to 1 inclusive);
 - b. CONTRACTOR's Bid (pages 1 to 17, inclusive);
 - c. Documentation submitted by CONTRACTOR prior to Notice of Award (pages n/a to n/a inclusive);
 - d. Jefferson Parish Resolution 96445 and letter of no objection _____ Department. Jefferson Parish Contract Documents
11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Written Amendments;
 - b. Work Change Directives;
 - c. Change Order(s).

- B. The documents listed in paragraph 9.01A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings indicated in the General Conditions.

10.02 Assignment of Contract

A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

A. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Other Provisions

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or on their behalf.

This Agreement will be effective on April 29, 2003 (which is the Effective Date of the Agreement).

OWNER:

By: Albert D. Lopez
Parish President
St. Charles Parish

[CORPORATE SEAL]

Attest

Address for giving notices:

(If OWNER is a corporation, attach evidence of authority to sign. If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of OWNER-CONTRACTOR Agreement.)

Designated Representative:

Name: Gregory E. Bush

Title: Director of Public Works/Wastewater

Address: PO Box 705
Luling, LA 70070

Phone: 985-783-5102

Facsimile: 985-785-2207

CONTRACTOR:

By: TORIAN TRAPP
Contractor & Attorney at Law

[CORPORATE SEAL]

Attest

Address for giving notices:

795 S. Madison Blvd
HAMMOND, LA 70403

License No. 26836
(Where applicable)

Agent for service of process:

(If CONTRACTOR is a corporation or a partnership, attach evidence of authority to sign.)

Designated Representative:

Name: TORIAN TRAPP

Title: PROJECT MANAGER

Address: 795 S. Madison Blvd
HAMMOND, LA 70403

Phone: 985-345-4274 ext 204

Facsimile: 985-542-4689